

## Article - Natural Resources

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§5-9A-05.

(a) A sponsor may file an application to designate a Rural Legacy Area in accordance with a schedule established by the Board. A local government may not apply for or approve an application for a Rural Legacy Area designation inside another jurisdiction's boundaries without that jurisdiction's approval.

(b) (1) The application shall describe the proposed Rural Legacy Area, include a Rural Legacy Area Plan, identify existing protected lands, state the anticipated level of initial landowner participation in the Program and the amount of the grant requested, and comply with the criteria set forth below.

(2) To qualify for additional funds appropriated above the level appropriated in fiscal year 2000 as provided for in § 12-1007(d) of the Public Safety Article, an application shall include a certification that the local jurisdiction has not adopted any local amendments to the Maryland Building Rehabilitation Code.

(c) The Board shall evaluate and compare applications in accordance with the following criteria in order to select those that best carry forward the goals and objectives of the Program set forth in § 5-9A-01 of this subtitle:

(1) The significance of the agricultural, forestry, and natural resources proposed for protection, including:

(i) The degree to which proposed fee or easement purchases will protect the location, proximity, and size of contiguous blocks of lands, green belts or greenways, or agricultural, forestry, or natural resource corridors;

(ii) The nature, size, and importance of the land area to be protected, such as farmland, forests, wetlands, wildlife habitat and plant species, vegetative buffers, or bay or waterfront access; and

(iii) The quality and public or economic value of the land;

(2) The degree of threat to the resources and character of the area proposed for preservation, as reflected by patterns and trends of development and landscape modifications in and surrounding the proposed Rural Legacy Area;

(3) The significance and extent of the cultural resources proposed for protection through fee simple purchases, including the importance of historic sites and significant archaeological areas;

(4) The economic value of the resource-based industries or services proposed for protection through land conservation, such as agriculture, forestry, recreation, and tourism;

(5) The overall quality and completeness of the Rural Legacy Plan, including:

(i) The degree to which existing planning, zoning, and growth management policies contribute to land conservation and the protection of cultural resources;

(ii) The degree to which the proposed plan is consistent with the applicable local comprehensive plan, including protection of sensitive areas and mineral resources;

(iii) How well existing or new conservation programs are coordinated with the proposed acquisition plan;

(iv) How well the plan will maximize acquisition of real property interests in contiguous blocks of land within the Rural Legacy Area while providing for protection of isolated acquisitions important to the plan;

(v) Provisions for protection of resources, such as voluntarily granted or purchased easements, fee estate purchases, or gifts of lands;

(vi) How the sponsor plans to manage, prioritize, and sequence easement and land acquisitions;

(vii) Methodology for prioritizing and valuing or appraising easements;

(viii) Proposed titleholders for easement or fee estate acquisitions; and

(ix) The quality of the proposed stewardship program for holding and monitoring of easement restrictions in perpetuity;

(6) The strength and quality of partnerships created for land conservation among federal, State, and local governments and land trusts for implementing the plan, including:

- (i) Financial support;
- (ii) Dedication of staff and resources; and
- (iii) Commitment to and development of local land conservation policies, such as changes in zoning and use of transferable development rights;

(7) The extent to which federal or other grant programs will serve as a funding match; and

(8) A sponsor's ability to carry out the proposed Rural Legacy Plan and the goals and objectives of the Program.

(d) The Board:

(1) Shall review applications and may request additional information from a sponsor;

(2) Shall submit applications to appropriate State agencies and to the advisory committee established by this subtitle and consider any recommendations made regarding the applications; and

(3) May negotiate the terms of an application and proposed Rural Legacy Area and plan with a sponsor.

(e) (1) A sponsor shall assure adequate public participation in the development of an application and provide the Board with a summary of that participation.

(2) (i) If an application proposes a Rural Legacy Area be located within 1 mile of the boundary of a municipal corporation, the municipal corporation shall have 45 days to review and comment on the application before the application is submitted to the Board.

(ii) The sponsor shall submit to the Board with the completed application a summary of the comments from the municipal corporation.

(f) (1) A land trust shall consult with a local government prior to filing an application.

(2) The Board may not approve or amend an application without local government approval.

(g) The right of public access may not be required under a conservation easement.

(h) A land trust may not hold exclusive title to real property interests acquired under this subtitle.

(i) An easement acquired under this subtitle is perpetual and may not be extinguished or released.

(j) (1) With the approval of a landowner, funds under this Program may be used to purchase a development right as part of an easement or fee estate acquisition. A development right shall be held by the titleholder and the Board and may be sold only within the same jurisdiction pursuant to local law.

(2) In a county with a locally adopted transferable development rights program and with the approval of the county, funds under this Program may be used to purchase transferable development rights in the county in accordance with the locally adopted transferable development rights program.

(3) The right to resell the development right shall be stated in the instrument of purchase.

(4) The Rural Legacy Board shall maintain records concerning:

(i) Real property from which transferable development rights are purchased; and

(ii) Real property to which rights are resold and transferred.

(5) The county shall provide to the Board information relating to the records required in paragraph (4) of this subsection.

(6) Transferable development rights may be resold only to owners or option purchasers of real property located in priority funding areas, including municipalities, within the county in which the rights were purchased.

(7) (i) The proceeds associated with the resale of transferable development rights shall be distributed only as described in this paragraph.

(ii) Fifty percent of the proceeds shall be used by the local government in which the development using transferable development rights is located to fund capital projects in the county or municipal corporation which is receiving transferable development rights. Funds shall be distributed to the

municipal corporation if the receiving area is within the corporate limits of a municipal corporation.

(iii) Fifty percent of the proceeds shall be returned to the Rural Legacy Program for use in the county in which the proceeds were generated.

(iv) Proceeds may not be used for operating expenses.

(k) All easement acquisitions must be recorded among the land records where the real property is located.

(l) State or local condemnation authority may not be used to acquire real property interests under this Program.

(m) Funds may be used for the protection of historic sites or significant archeological areas that otherwise meet the goals of this Program only if the sponsor is acquiring real property interests through a fee simple purchase.

(n) A land or mineral owner who participates in this Program may reserve mineral rights for extraction in accordance with applicable law and the terms of the easement or fee acquisition.

(o) In its determination under subsection (c) of this section, the Rural Legacy Board may not make its determination solely on the basis of whether a county has adopted a transferable development rights program authorizing Rural Legacy Board purchases and sales of transferable development rights.

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